

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 89  
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Short Title: Ethics/Lobbying.

(Public)

Sponsors:

Referred to:

February 18, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE REGISTRATION AND REPORTING  
3 REQUIREMENTS FOR LOBBYISTS AND THEIR PRINCIPALS; TO PROHIBIT  
4 CAMPAIGN FUND-RAISING FROM LOBBYISTS FOR LEGISLATORS AND  
5 COUNCIL OF STATE MEMBERS WHILE THE GENERAL ASSEMBLY IS IN  
6 REGULAR SESSION; AND TO REQUIRE REPORTING BY GROUPS  
7 EXPENDING SUBSTANTIAL SUMS OF MONEY ON LEGISLATORS AND  
8 COUNCIL OF STATE MEMBERS.

PART I CHANGES IN REGISTRATION  
AND REPORTING FOR LOBBYISTS,  
THEIR PRINCIPALS,  
AND OTHERS.

PART II NO-FUNDRAISING IN SESSION FROM LOBBYISTS.

9 The General Assembly of North Carolina enacts:

10 **PART I – CHANGES IN REGISTRATION AND REPORTING.**

11 Section 1.1. Article 9A of Chapter 120 of the General Statutes reads as  
12 rewritten:

13 "ARTICLE 9A.

**"LOBBYING.****"§ 120-47.1. Definitions.**

For the purposes of this Article, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

- (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any advance, conveyance, deposit, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge or anything of value and any contract, agreement, promise or other obligation whether or not legally ~~enforceable.~~ enforceable, but those terms do not include prizes, awards, or compensation not exceeding one hundred dollars (\$100.00) in a calendar year.
- (2) ~~The term "legislative agent" shall mean any person who is employed or retained, with compensation, by another person to give facts or arguments to any member of the General Assembly during any regular or special session thereof upon or concerning any bill, resolution, amendment, report or claim pending or to be introduced. The term "legislative agent" shall include, but not be limited to, corporate officers and directors and other individuals who are full or part time employees of other persons and whose duties or activities as legislative agents, as hereinbefore defined, are incidental to the principal purposes for which they are employed or retained. The reimbursement of actual personal travel and subsistence expenses reasonably necessary to communicate with a member or members of the General Assembly shall not be considered compensation for purposes of determining whether a person is a legislative agent under this subdivision.~~
- (3) ~~The term 'person' means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons.~~
- (4) The term 'legislative action' means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature or by a member or employee of the legislature acting or purporting to act in an official capacity.
- (5) The term 'legislative official' includes:
  - a. A member or member-elect of either house of the General Assembly; or
  - b. A member of a commission or other entity established by and responsible to either house, or both houses, of the General Assembly.
- (6) The term 'lobbying' means:
  - a. Influencing or attempting to influence legislative action through direct oral or written communication with a member of the General Assembly; or

1           b. Solicitation of others by lobbyists to influence legislative  
2           action.

3           (7) The term 'lobbyist' means an individual who:

4           a. Is employed and receives compensation, or who contracts for  
5           economic consideration, for the purpose of lobbying; or

6           b. Represents another person and receives compensation for the  
7           purpose of lobbying.

8           The term 'lobbyist' shall not include those individuals who are specifically exempted  
9           from this Article by G.S. 120-47.8. For the purpose of determining whether an  
10           individual is a lobbyist under this subdivision, reimbursement of actual travel and  
11           subsistence expenses shall not be considered compensation; provided, however, that  
12           reimbursement in the ordinary course of business of these expenses shall be considered  
13           compensation if a significant part of the individual's duties involve lobbying before the  
14           General Assembly.

15           (8) The terms 'lobbyist's principal' and 'principal' mean the entity in whose  
16           behalf the lobbyist influences or attempts to influence legislative  
17           action.

18           (9) The term 'person' means any individual, firm, partnership, committee,  
19           association, corporation, or any other organization or group of persons.

20           (10) The General Assembly is in 'regular session' from the date set by law  
21           or resolution that the General Assembly convenes until the General  
22           Assembly either:

23           a. Adjourns sine die; or

24           b. Recesses or adjourns for more than 10 days.

25 **"§ 120-47.2. Registration procedure.**

26           ~~(a) In each General Assembly session and for each employer, or retainer, every~~  
27           ~~person employed or retained as a legislative agent in this State shall, before engaging in~~  
28           ~~any activities as a legislative agent, register with the Secretary of State. If a corporation~~  
29           ~~or partnership is employed or retained as a legislative counsel, and more than one~~  
30           ~~partner, employee or officer of the corporation or partnership, shall act as a legislative~~  
31           ~~agent on behalf of the client, then the additional individuals shall be separately listed on~~  
32           ~~the registration under subsection (b), and a fee in the same amount as imposed by G.S.~~  
33           ~~120-47.3 shall be due for each such individual in excess of one. A lobbyist shall file a~~  
34           ~~registration statement with the Secretary of State before engaging in any lobbying. A~~  
35           ~~separate registration statement is required for each lobbyist's principal.~~

36           (b) ~~The form of such the registration shall be prescribed by the Secretary of State~~  
37           ~~and shall include the registrant's full name, firm, and complete address; the registrant's~~  
38           ~~place of business; the full name and complete address of each person by whom the~~  
39           ~~registrant is employed or retained; and a general description of the matters on which the~~  
40           ~~registrant expects to act as legislative agent. a lobbyist.~~

41           (c) ~~Each legislative agent lobbyist shall register again with the Secretary of State~~  
42           ~~no later than 10 days after any change in the information supplied in his last registration~~  
43           ~~under subsection (b). Such Each supplementary registration shall include a complete~~  
44           ~~statement of the information that has changed.~~

1 (d) Within 20 days after the convening of each regular session of the General  
2 Assembly, the Secretary of State shall furnish each member of the General Assembly  
3 and the State Legislative Library a list of all persons who have registered as a legislative  
4 agent—lobbyists and whom they represent. A supplemental list shall be furnished  
5 periodically each 20 days thereafter as the session progresses.

6 (e) Each registration statement required under this Article shall be effective from  
7 the date of filing until January 1 of the following odd-numbered year. The lobbyist  
8 shall file a new registration statement after that date, and the applicable fee shall be due  
9 and payable.

10 **"§ 120-47.3. Registration fee.**

11 ~~Every person, corporation or association which employs any person to act as~~  
12 ~~legislative agent as defined by law to promote or oppose in any manner the passage by~~  
13 ~~the General Assembly of any legislation affecting the pecuniary interests of any~~  
14 ~~individual, association or corporation as distinct from those of the whole people of the~~  
15 ~~State, or to act in any manner as a legislative agent in connection with any such~~  
16 ~~legislation, Every lobbyist's principal shall pay to the Secretary of State a fee of~~  
17 ~~seventy-five dollars (\$75.00) which fee shall be due and payable by either the employer~~  
18 ~~or the employee lobbyist or the lobbyist's principal at the time of registration.~~

19 A separate registration, together with a separate registration fee of seventy-five  
20 dollars (\$75.00), shall be required for each ~~person, corporation or association lobbyist's~~  
21 principal for which a person acts as ~~legislative agent—a lobbyist.~~ Fees so collected shall  
22 be deposited in the ~~general fund—General Fund~~ of the State.

23 **"§ 120-47.4. Written authority from employer to be filed; copy for legislative**  
24 **committee—lobbyist's principal to be filed.**

25 Each ~~legislative agent—lobbyist~~ shall file with the Secretary of State within 10 days  
26 after his registration a written authorization to act as such, signed by ~~the person~~  
27 ~~employing him.—the lobbyist's principal.~~

28 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

29 (a) No person shall act as a ~~legislative agent—lobbyist~~ for compensation which is  
30 dependent in any manner upon the passage or defeat of any proposed legislation or upon  
31 any other contingency connected with any action of the General Assembly, the House,  
32 the Senate or any committee thereof.

33 (b) No person shall attempt to influence the action of any member of the General  
34 Assembly by the promise of financial support of ~~his—the member's~~ candidacy, or by  
35 threat of financial contribution in opposition to ~~his—the member's~~ candidacy in any future  
36 election.

37 **"§ 120-47.6. Statements of legislative agent's—lobbyist's lobbying expenses required.**

38 Each ~~legislative agent~~ shall file annually, within 30 days after the final adjournment  
39 ~~of the regular session of the General Assembly held in a calendar year, a report with~~  
40 ~~respect to each person represented setting forth the date, to whom paid, and amount of~~  
41 ~~each expenditure made during the previous year in connection with promoting or~~  
42 ~~opposing any legislation in any manner covered by this Article,~~

43 (a) Each lobbyist shall file an expense report with respect to each principal  
44 within 60 days after the last day of the regular session. This expense report shall

1 include all expenditures made between January 1 and the last day of the regular session.  
2 The lobbyist shall file a supplemental report including all expenditures made after the  
3 last day of the regular session, but during the calendar year, by February 28 of the  
4 following year. The lobbyist shall file both expense reports whether or not expenditures  
5 are made.

6 (b) Each expense report shall set forth the date of each expenditure, to whom  
7 paid, the name of any legislator who benefitted from each expenditure, and the amount  
8 of each expenditure made during the previous reporting period in connection with  
9 lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)  
10 entertainment, (4) food, (5) any item having a cash equivalent value of more than  
11 twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,  
12 directly or indirectly. It shall not be necessary to report expenditures in a particular  
13 category if the total amount expended in the particular category on behalf of a person  
14 represented is of twenty-five dollars (\$25.00) or less. A report shall be filed annually  
15 whether or not contributions or expenditures are made. When more than 10 members of the  
16 General Assembly benefitted or were invited to benefit from an expenditure, the  
17 lobbyist shall not be required to report the name of any legislator, but shall be required  
18 to report the number of legislators or, with particularity, the basis for their selection.

19 (c) All reports shall be in such the form as shall be prescribed by the Secretary of  
20 State and shall be open to public inspection.

21 (d) When a legislative agent lobbyist fails to file a lobbying expense report as  
22 required herein, the Secretary of State shall send a certified or registered letter advising  
23 the agent lobbyist of his the delinquency and the penalties provided by law. Within 20  
24 days of the receipt of such the letter, the agent lobbyist shall deliver or post by United  
25 States mail to the Secretary of State the required report and an additional late filing fee  
26 of ten dollars (\$10.00). Filing of the required report and payment of the additional fee  
27 within the time extended shall constitute compliance with this section. Failure to file an  
28 expense report in one of the manners prescribed herein shall result in revocation of any  
29 and all registrations of a legislative agent lobbyist under this Article. No legislative agent  
30 lobbyist may register or reregister under this Article until he has fully complied with  
31 this section.

32 **"§ 120-47.7. Statements of employer lobbyist's principal lobbying expenses**  
33 **required.**

34 (a) Each person who employs or retains a legislative agent shall file annually,  
35 within 30 days after the final adjournment of the regular session of the General  
36 Assembly held in a calendar year, a report with respect to each agent employed or  
37 retained setting Each lobbyist's principal shall file an expense report within 60 days  
38 after the last day of the regular session. This expense report shall include all  
39 expenditures made between January 1 and the last day of the regular session. The  
40 principal shall file a supplemental expense report, including all expenditures made after  
41 the last day of the regular session, but during the calendar year, by February 28 of the  
42 following year. The principal shall file both expense reports whether or not  
43 expenditures are made during a reporting period.

1       (b) Each expense report shall set forth the date, name and address of each lobbyist  
2 employed, appointed, or retained by the lobbyist's principal, the date of each  
3 expenditure made, to whom paid, name of any legislator who benefitted from each  
4 expenditure, and amount of each expenditure made during the previous year-reporting  
5 period in connection with promoting or opposing any legislation in any manner covered by  
6 this Article, lobbying, in each of the following categories: (1) transportation, (2) lodging,  
7 (3) entertainment, (4) food, (5) any item having a cash equivalent value of more than  
8 twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or promised,  
9 directly or indirectly, and (7) compensation to legislative agents-lobbyists in connection  
10 with their lobbying activities. It shall not be necessary to report expenditures in any  
11 particular category if the total amount expended in the particular category on behalf of a person  
12 represented is of twenty-five dollars (\$25.00) or less. When more than 10 members of  
13 the General Assembly benefitted or were invited to benefit from an expenditure, the  
14 principal shall not be required to report the name of any legislator, but shall be required  
15 to report the number of legislators or the basis for their selection. In the category of  
16 compensation to legislative agents-lobbyists it shall not be necessary to report the full salary,  
17 or any portion thereof, of a legislative agent who is a full-time employee of or is annually  
18 retained by the reporting employer.—the principal shall estimate and report the  
19 compensation paid or promised directly or indirectly, to each lobbyist based on the  
20 estimated time, effort and expense in connection with lobbying activities on behalf of  
21 the principal. If a lobbyist is a full-time employee of the principal, or is compensated by  
22 means of an annual fee or retainer, the principal shall estimate and report the portion of  
23 the lobbyist's salary or retainer that compensates the lobbyist for lobbying. A report shall  
24 be filed annually whether or not payments are made.

25       (c) All reports shall be in the form prescribed by the Secretary of State and open  
26 to public inspection.

27       (d) ~~When an employer or retainer of a legislative agent~~ a lobbyist's principal fails to  
28 file a lobbying expense report as required herein, the Secretary of State shall send a  
29 certified or registered letter advising the ~~employer or retainer~~ lobbyist's principal of his  
30 the delinquency and the penalties provided by law. Within 20 days of the receipt of  
31 ~~such the~~ letter, the ~~employer or retainer~~ lobbyist's principal shall deliver or post by United  
32 States mail to the Secretary of State the required report and a late filing fee of ten  
33 dollars (\$10.00). Filing of the required report and payment of the late fee within the  
34 time extended shall constitute compliance with this section.

35 **"§ 120-47.8. Persons exempted from provisions of Article.**

36 The provisions of this Article shall not be construed to apply to any of the following:

- 37       (1) An individual, not acting as a ~~legislative agent~~ lobbyist, solely engaged  
38 in expressing a personal opinion on legislative matters to his own  
39 legislative delegation or other members of the General Assembly.
- 40       (2) A person appearing before a legislative committee at the  
41 invitation or request of the committee or a member thereof and who  
42 engages in no further activities as a ~~legislative agent~~ lobbyist in  
43 connection with that or any other legislative matter.

- 1 (3) a. A duly elected or appointed official or employee of the State, the  
2 United States, a county, municipality, school district or other  
3 governmental agency, when appearing solely in connection with  
4 matters pertaining to his office and public duties.
- 5 b. Notwithstanding the persons exempted in this Article, the  
6 Governor, Council of State, and all appointed heads of State  
7 departments, agencies and institutions, shall designate all  
8 authorized official legislative liaison personnel and shall file  
9 and maintain current lists of designated legislative liaison  
10 personnel with the Secretary of State and shall likewise file  
11 with the Secretary of State a full and accurate accounting of all  
12 money expended on lobbying, other than the salaries of regular  
13 full-time employees, at the same times lobbyists are required to  
14 file expense reports under G.S. 120-47.5.
- 15 (4) A person performing professional services in drafting bills or in  
16 advising and rendering opinions to clients, or to legislators on behalf  
17 of clients, as to the construction and effect of proposed or pending  
18 legislation where ~~such~~ the professional services are not otherwise,  
19 directly or indirectly, connected with legislative action.
- 20 (5) A person who owns, publishes or is employed by any news medium  
21 while engaged in the acquisition or dissemination of news on behalf of  
22 ~~such~~ the news medium.
- 23 ~~(6) Notwithstanding the persons exempted in this section, the Governor,~~  
24 ~~Council of State, and all appointed heads of State departments,~~  
25 ~~agencies and institutions, shall designate all authorized official~~  
26 ~~legislative liaison personnel and shall file and maintain current lists of~~  
27 ~~designated legislative liaison personnel with the Secretary of State and~~  
28 ~~shall likewise file with the Secretary of State a full and accurate~~  
29 ~~accounting of all money expended in influencing or attempting to~~  
30 ~~influence legislation, other than the salaries of regular full-time~~  
31 ~~employees.~~
- 32 (7) ~~Members of the General Assembly.~~ Legislative officials.
- 33 (8) A person responding to inquiries from a ~~member of the General~~  
34 ~~Assembly,~~ legislative official, and who engages in no further activities  
35 as a ~~legislative agent~~ lobbyist in connection with that or any other  
36 legislative matter.
- 37 (9) An individual giving facts or recommendations pertaining to  
38 legislative matters to his own legislative delegation only.

39 **"§ 120-47.9. Punishment for violation.**

40 Whoever willfully violates any provision of this Article shall be guilty of a  
41 misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor  
42 more than one thousand dollars (\$1,000), or imprisoned not exceeding two years, or  
43 both. In addition, no ~~legislative agent~~ lobbyist who is convicted of a violation of the

1 provisions of this Article shall in any way act as a ~~legislative agent~~ lobbyist for a period  
2 of two years following his conviction.

3 **"§ 120-47.10. Enforcement of Article by Attorney General.**

4 The Secretary of State shall report apparent violations of this Article to the Attorney  
5 General. The Attorney General shall, upon complaint made to him of violations of this  
6 Article, make an appropriate investigation thereof, and he shall forward a copy of the  
7 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-  
8 60 of which Wake County is a part, who shall prosecute any person who violates any  
9 provisions of this Article.

10 **"§ 120-47.11. Rules and forms.**

11 The Secretary of State shall make, amend, and rescind any rules, orders, forms, and  
12 definitions as are necessary to carry out the provisions of this Article.

13 **"§ 120-47.12. Goodwill expenditures.**

14 Any person, company or group, other than a lobbyist or lobbyist's principal, who or  
15 which expends more than one thousand dollars (\$1,000) in a calendar year on one or  
16 more legislators or Council of State members in an effort to curry favor or cultivate  
17 personal goodwill or favorable opinions on the part of any legislator or Council of State  
18 member by providing them with entertainment, food, lodging, transportation, gifts,  
19 contributions, or other things or services of value, shall file a report with the Secretary  
20 of State containing the information required in G.S. 120-47.7(b). The reports shall be in  
21 the form prescribed by the Secretary of State and shall be open to public inspection, and  
22 shall be filed by February 28 of the year following the calendar year in which the  
23 expenditures were made."

24 Sec. 1.2. Article 10 of Chapter 120 of the General Statutes is repealed.

25 **PART II – LIMITS ON FUND-RAISING IN SESSION.**

26 Sec. 2. Chapter 163 of the General Statutes is amended by adding a new  
27 section to read:

28 **"§ 163-278.13A. No fund-raising from lobbyists for legislators or Council of State**  
29 **members while General Assembly is in regular session.**

30 (a) While the General Assembly is in regular session, none of the following  
31 entities may solicit or accept a contribution from, or at the behest or recommendation of,  
32 an individual registered as a lobbyist pursuant to Article 9A of Chapter 120 of the  
33 General Statutes:

- 34 (1) A member of the Council of State; or  
35 (2) A member of the General Assembly; or  
36 (3) A political committee the principal purpose of which is to assist a  
37 member or members of the Council of State or General Assembly.

38 (b) While the General Assembly is in regular session, no individual registered as  
39 a lobbyist under Article 9A of Chapter 120 of the General Statutes may make a  
40 contribution to any of the entities listed in subdivisions (1) through (3) of subsection (a)  
41 of this section.

42 (c) This section does not apply to:

- 43 (1) Any contribution made to or by a State, county or congressional  
44 district executive committee of a political party; or

- 1           (2) Any contribution made to or solicited for a political committee that  
2           operates on a Statewide basis in conjunction with the executive  
3           committee of a political party for the purpose of assisting that party's  
4           candidates for Council of State or General Assembly; or  
5           (3) Any contribution made by a member of the Council of State or  
6           General Assembly to a political committee the principal purpose of  
7           which is to assist himself; or  
8           (4) Any contribution made to or any solicitation for a nonprofit  
9           organization under 26 U.S.C. § 501(c); or  
10          (5) Any contribution accepted with the intent that it be used to defray legal  
11          or other expenses incurred in connection with the contesting of  
12          election results; or  
13          (6) Any contribution to any of the entities listed in subdivisions (1)  
14          through (3) of subsection (a) of this section if the member of the  
15          Council of State or General Assembly has filed an official notice of  
16          candidacy with the appropriate board of elections for any elective  
17          office, provided the contribution is for the elective office for which the  
18          member has filed.

19          (d) A violation of this section is a misdemeanor, but no individual or person shall  
20 be prosecuted under this section for accepting or making a contribution unless the State  
21 Board of Elections has notified the individual or person of the apparent violation in  
22 writing by certified mail, has given the individual or person an opportunity to return or  
23 to request the return of the contribution, and, within 10 days of the receipt of the  
24 notification, the individual or person has failed to return or to request the return of the  
25 contribution.

26          (e) For purposes of this section, the General Assembly is in regular session from  
27 the date set by law or resolution that the General Assembly convenes until the General  
28 Assembly either:

- 29           (1) Adjourns **sine die**; or  
30           (2) Recesses or adjourns for more than 10 days."

31          Sec. 3. Part I of this act shall become effective January 1, 1992, except for  
32 G.S. 120-47.11 which is effective on ratification. Part II of this act is effective on  
33 ratification. This act shall be implemented within funds available to the Secretary of  
34 State. Nothing in this act shall be construed to obligate the General Assembly to  
35 appropriate funds to implement the provisions of this act.